

**Florida's Request To Assume Administration of a Clean Water Act Section 404 Program
(85 FR 57853, September 16, 2020) EPA-HQ-OW-2018-0640**

Code 20 Conflict of interest

Commenters opposed the Florida assumption, expressing concerns that Florida has many powerful special interest groups that are more interested in making money than protecting or preserving the environment. Commenters' list of special interests included developers, builders, water management districts, water management district boards, lobbyists, the state legislature, and state officials, including current and past governors. Commenters cited Florida's history of poor wetland protection and consistently expressed concerns that under the Florida Assumption, special interests will further destroy Florida's wetlands and waterways in the name of profit.

Multiple commenters (approximately 806) submitted a form letter (form letter 0226) opposing the Florida Assumption, stating that powerful special interests want to exploit Florida's wetlands for profit, and that Florida's assumption of the permitting process will allow powerful special interests to do just that. In a separate form letter (form letter 0517), approximately 498 commenters opposed the Florida Assumption, asserting that approval of the Assumption will result in fast tracking of permits for developers and powerful special interests at the expense Florida's wetlands, which are vital to the environment and economy. Commenter (0057) referenced wetland losses from various websites including the USDA and local Florida websites. Commenters (0517 form letter) urged the EPA to maintain the federal protections and resources for Florida's wetlands and wildlife. Unique commenters (including 0037, 0045, 0132, 0158, 0159, 0163, 0195, 0204) concurred the developers and special interests will influence more development under the Florida Assumption.

Commenter (0188) said development interests will now develop what is left of Florida's wetlands. Commenter (0369) called the Florida Assumption a "pay-to-play" situation. Commenter (0427) cited the Urban Development Boundaries project in South Florida as an example of special interests dictating the approach to wetland development.

Commenter (0370) said that if the state takes over, it will be difficult to stop politically influential mining and development interests from destroying remaining wetlands.

Developers and lobbyist will influence state officials

Commenters claim that state officials are in the pocket of developers, specifically: Senator Scott (0041, 0351, 0360), Governors Rick Scott and Ron DeSantis (0292), the governor's office (0429-Eric Hughes), and the state legislature (0114, 0205). Other commenters generally say the FDEP (0321), the state (0229, 0315), state employees (0243, 0277), state authorities (0260), state agencies (0397), and politicians (0341) are influenced by developers and special interests. A commenter (0368) said even though the USACE wants to straighten or dam waterways, at least they are not like the legislature who sell out to lobbyists. One commenter (0238) says weak regulators will be at the hands of developers and their bottomless pit of money. Comments

(0038, 0194) agree that Florida state officials will reduce wetlands at the hands of outside influence. Some commenters (0101, 0112, 0305, 0417, 0424) simply say political pressure will be put on the state to develop lands. Commenters (0384, 0395) say money to state campaigns will be an additional influence.

Commenters specifically mention that developers will reduce wetlands (0039, 0289) or officials will be influenced by developers (0329). Another commenter (0117) says Florida is run by developers. Commenter (0237) claimed that protections will be weakened by developers with economic influence. One commenter (0241) said Florida needs strong federal protection that will not be pressured by developers. Another commenter (0339) calls developers industry polluters.

One commenter (0109) says developers are behind the Florida Assumption, in order to shorten the review process. Some commenters (0110, 0187, 0236, 0311) contend that the entire Florida Assumption is a giveaway for developers to build and remove wetlands. Another commenter (0205) called it a developers and land barons wetlands land assumption grab.

Commenters (0026, 0035) say everyone knows state officials are subject to pressures from state politicians while federal officials are not. Commenter (0189) adds that Florida will always cave in to developers. Similarly, commenter (0190) states politicians only look at the bottom line and are open to corruption.

Other commenters (0030, 0100, 0168, 0268) state the Florida government is only about development and not protection. A commenter (0296) says the politically-influenced FDEP will just fast-track permits. Another commenter (0298) states Florida government offices just build, build, build. Two commenters say leaders (0306) and Florida (0307) care only about money and not the environment.

Commenter (0155) says if left to the FDEP, developers will bring corruption. A commenter (0246) is opposed because such a transfer of authority is likely to result in a politicization of the permitting process.

Commenter (0040) surmised that FDEP will not have the will or manpower to consider the environment. Another commenter (0252) adds that this move is a way for the FDEP to court big business and developer interests.

Commenter (0209) goes further and says the Governor's Office and State Legislature have implemented and influenced the ERP program to the point that the FDEP/WMD staff see applicants as their "clients" and they hardly ever deny ERP permits authorizing the destruction of wetlands. The commenter (0209) says WMDs management bureaucracy is controlled by the Governing Boards (typically nine to 13 individuals) who are all political appointees of the sitting governor. The commenter (0209) says WMD Board members are typically developers, ranchers, big agricultural, and local politicians with little education in water resources. Similarly, one commenter (0251) states FDEP is a permitting agency, not an environmental protection agency and actively looks for ways to help those seeking permits to be successful in obtaining those permits, which is inherently bias. One commenter (0293) likens the move to giving cocaine to a crack addict and mentioned Governor Scott gutting FDEP of scientists. A commenter (0274)

says if moved to Florida, wetland protection would under the whim of the governor and the political lobbyist that support him/her. Another commenter (0361) says Florida does not have a functioning water management system due to the governor. A commenter (0373) again points out that the FDEP is an agency with appointees in charge so it follows the governors' agendas. One commenter (0375) said the state should appoint environmental and biological scientists to the state's governing boards and not developers and industrial experts.

History shows Florida will prioritize development over environmental health

Commenter (0395) declared that FDEP has become a rubber stamp for industry and businesses in Florida and in the past decade elected official and their appointees have proven they are swayed by developers and industry. Commenter (0103) agreed that special interests have influenced development and that FDEP needs checks and balances in place based on the destruction of wetland for the last 20 years. Commenter (0233) says based on explicit statements and the past history of administration in the state, that the purpose of the Florida Assumption is to let the state fast-track permitting and cater to special-interest developer groups.

Commenter (0108) pointed out that water quality has declined with massive algae blooms and the commenter blamed the decline on all levels of state and local government who are more accessible to lobbying by land development and agricultural interests. Numerous commenters (0161, 0256, 0258, 0302, 0322, 0379) say that based on history, more wetlands and environmental resources will be lost if the state takes over the Section 404 permitting program. Commenters (0127) cites the state's record of poor environmental stewardship. Another (0183) mentions state officials from the state cabinet and the Legislature on down cannot be entrusted to serve the public interest in environmental affairs and cited non-constitutional items such as fish-nets and pig farms in the state constitution that show the favor of special interests.

One commenter (0206) says it is clear since the state's inception that Florida officials have proven themselves unable to stand up to development and protect the state's natural resources. A commenter (0283) says Florida has a history of back-room deals. Commenter (0250) mentions Florida has a long and disappointing history of allowing political, developers, and other special interests to impact permitting and other environmental actions and emphasized that Floridians cannot jeopardize the remaining wetlands by putting their fate in the hands of an agency that is vulnerable to political and special interest influence.

Even though the USACE is not infallible, commenter (0295) says, based on history they are better to server as the objective arbiter of development. Similarly, another commenter (0353) says as poor of a record as federal officials have, state officials are even worse when it comes to sacrificing the state's environment to development interests.

Commenter (0247) cites personal experience and common knowledge, claiming that the St. Johns River Water Management District is corrupt and its former director also a private consultant to real estate developers.

Commenter (0043) says the FDEP and Water Management Districts have been decimated by the last two administrations scientific positions were eliminated, and in some cases replaced them

with development-friendly individuals (the commenter cites 600 positions in FDEP alone). A commenter (0254) similarly adds a past example of corruption and ineptness where Governor Rick Scott did his best to remove wetlands oversight by cutting 600 positions from the FDEP and packing the state governing boards with pro-development appointees and contends that Governor DeSantis is going to do the same. Commenter (0398) more generally says both the prior and current governor have stacked state governing boards with developers and pro-extraction individuals. Another commenter (0365) simply says Governor Scott was a “money man” and Governor DeSantis is equally negligent.

Commenter (0044) says that the FDEP requires developers to provide public notice only in obscure publications as long as it’s in the same county. Commenter (0044) also gives an unrelated example of FDEP using outdated data to approve the Manatee Biologic Evaluation permit and did not consider impacts to the Sea Grass Protection and Restoration Target Areas. Commenter (0044) cited other historical examples of FDEP’s failings vs USACE. Commenter (0367) points to Blue Cypress Springs and Nestle’s excessive withdrawal of water and incomplete standards for agricultural controls. Another commenter (0429-Marilyn Vasquez-Almedo) pointed to the pollution of Biscayne Bay.

FDEP does not have the necessary checks and balances

Commenters (0141, 0220, 0224, 0225) specifically mention there will be no checks and balances if FDEP assumes Section 404 permitting. Commenters (0141, 0220, 0224, 0225) recognize that Florida has always been favorable towards development. Commenters (0141, 0220, 0224, 0225) say that when reviewing Section 404 permit applications, FDEP will not have the needed checks and balances from other state agencies and water management districts. The commenters (0141, 0220, 0224, 0225) emphasize that the federal government plays a critical role in balancing all variables in the permitting process.

Commenter (0055) says that moving Section 404 permitting to the state level risks allowing political and developmental entities to influence the process. Commenter (0055) notes moving the program to the state removes the buffer that the USEPA uses to act independently and wisely in the permitting process.

One commenter (0429-Marjorie Laurent) says federal oversight is critical to ensure adequate protection of Florida waterways. Commenter (0429-Marjorie Laurent) contended that FDEP actively looks for ways to help those seeking permits to obtain permits because FDEP bias is inherent in the permit-issuing process; thus the commenter says federal oversight is essential to strike a balance between the interests of the public versus interests of those seeking permits.

The federal government is better suited because it is insulated from influence

Commenter (0211, 0272) states the federal agency is in a better position to make unbiased and uninfluenced decisions when it comes to protecting habitat of endangered wildlife and protecting our fresh-water sources. Commenter (0204) adds that federal agencies have performed Section 404 permitting for decades in a way that protects the process from political and self-serving interests. Commenter (0055) specifically mentions the USEPA can act independently and

wisely in the permitting process. Commenters (0098 and 0211) added that the state agencies will have political pressure, but federal agencies will not.

Commenter (0275) cites personal professional experience with both USEPA and USACE and proclaims that federal standards are high and approval is predictable and stable, whereas state standards are choppy, political. Commenter (0275) says state functions and standards do not strike a balance between protecting the environment and special interests such as the political careers of the latest state appointee.

Commenter (0415) contends that clear federal oversight and authority offers a critical layer of protection over Section 404 permitting, whereas FDEP's proposal limits those opportunities. The commenter (0415) cited Palm Beach County and the FL DOT 's 2015 plan to widen State Road 7 as an example where federal agencies had multiple concerns and state agencies did not and approved it. The state appellate court reversed the approval to force states agencies to have a more careful look.

One commenter (0211) reiterated that Section 404 administration by the USACE is better without the political pressure and provides necessary buffer between industry interests and review agencies. Commenter (0421) concurred, saying USACE will not be nearly as affected by pressure from the Florida legislature or the governor as would a state of Florida department because the USACE is able to withstand politics and put the environment and water first.

One commenter (0171) points to the "amazing job" the USEPA has done, whereas the state will be pressured to make mistakes.